

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:04cr254

UNITED STATES OF AMERICA

vs.

RANDY JEROME BROOKS

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ORDER

THIS MATTER is before the Court upon motion of the defendant pro se for a reduction of sentence based on the retroactive amendments to the United States Sentencing Guidelines relating to crack cocaine. (Doc. No. 48).

At sentencing, the Court varied from the advisory guideline range and imposed the statutory mandatory minimum sentence of 60 months' imprisonment on Count Two, based on the defendant's plea to possessing with intent to distribute more than 5 but fewer than 50 grams of cocaine base. (Doc. No. 1: Indictment; Doc. No. 29: Plea Agreement; Doc. No. 42: Judgment; Doc. No. 43: Statement of Reasons). Accordingly, the change in the guidelines does not affect the defendant's sentence. Neal v. United States, 516 U.S. 284, 296 (1996) (retroactive amendment to guidelines does not alter statutory mandatory minimum).

IT IS, THEREFORE, ORDERED that the defendant's motion is **DENIED**.

The Clerk is directed to certify copies of this order to the defendant, the Community Defender, the United States Attorney, the United States Marshals Service, and the United States Probation Office.

Signed: August 25, 2008



Robert J. Conrad, Jr.
Chief United States District Judge

